

§ 236.255

the contract of insurance may be terminated only if the Commissioner determines that the requirements of section 250(a) are met.

[55 FR 38958, Sept. 21, 1990]

§ 236.255 Forbearance relief.

(a) In a case where the mortgage is in default, the mortgagor and the mortgagee may enter into a forbearance agreement for the reduction or suspension of the mortgagor's regular mortgage payments for a specified period of time, if the Commissioner determines that the default was due to circumstances beyond the mortgagor's control and that the mortgage probably will be restored to good standing within a reasonable period of time. Such determination shall be evidenced by the Commissioner's written approval of the forbearance agreement.

(b) The time specified in § 207.258(a) of this chapter, within which a mortgagee shall give the Commissioner written notice of its intention to file an insurance claim, shall be suspended for the period of time specified in the forbearance agreement as long as the mortgagor complies with the requirements of such agreement.

(c) If the mortgagor fails to meet the requirements of a forbearance agreement or to cure the default under the mortgage at the expiration of the forbearance period, and such failure continues for a period of 30 days, the mortgagee shall notify the Commissioner of such failure. Within 45 days thereafter, unless a modification or extension of the forbearance agreement has been approved by the Commissioner, the mortgagee shall notify the Commissioner of its election to file an insurance claim and of its election to either assign the mortgage to the Commissioner or acquire and convey title to the property to the Commissioner. If the mortgage is assigned to the Commissioner, the special insurance benefits prescribed in § 236.265(b) shall be applicable.

§ 236.260 Request by Commissioner for assignment of mortgage.

The mortgagee shall, when requested by the Commissioner, assign to the Commissioner a mortgage on which interest reduction payments are being made pursuant to the provisions of

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§ 236.501 *et seq.* If the mortgage is not in default when the Commissioner requests its assignment, the first day of the month following the Commissioner's request shall be considered the date of default.

§ 236.265 Payment of insurance benefits.

All of the provisions of § 207.259 of this chapter relating to insurance benefits apply to multifamily project mortgages insured under this subpart, except as follows:

(a) Insurance claims shall be paid in cash unless the mortgagee files a written request for payment in debentures.

(b) When the mortgage is assigned to the Commissioner pursuant to § 236.260 or is assigned in a case where the mortgagor fails to comply with the requirements of a forbearance agreement approved by the Commissioner in accordance with the requirements of § 236.255 or is assigned in a case where the mortgagor fails to cure the default at the expiration of the forbearance period, the insurance benefits shall be paid in cash and shall be computed in accordance with § 207.259(b) of this chapter, except that in lieu of the allowance for debenture interest in § 207.259(b)(1)(iii) of this chapter, the payment shall include the amount of the unpaid accrued mortgage interest computed to the date the assignment of the mortgage to the Commissioner is filed for record. In addition, an amount shall be included equivalent to the debenture interest which would have been earned from the date the mortgage assignment was filed for record to the date the cash payment is made, except that when the mortgagee fails to meet any one of the applicable requirements of §§ 207.256, 207.258(b), and 236.255(c) of this chapter within the specified time and in a manner satisfactory to the Commissioner (or within such further time as the Commissioner may approve in writing), such amount shall be computed only to the date on which the particular required action should have been taken or to which it was extended.

(c) Where the assignment of the mortgage is made pursuant to § 236.260 and the mortgage is not in default at the time of such assignment, the one percent deduction prescribed in

§ 207.259(b)(2)(iv) of this chapter shall not be applicable.

[36 FR 24643, Dec. 22, 1971, as amended at 59 FR 49817, Sept. 30, 1994]

Subpart C—Interest Reduction Payments

§ 236.501 Interest reduction payments contract.

This subpart shall constitute the interest reduction payment contract between the mortgagee and the Commissioner with respect to a mortgage insured under section 236 of the National Housing Act. The endorsement of the mortgage for insurance shall constitute the execution of the interest reduction payment contract with respect to the mortgage being insured.

§ 236.505 Eligible mortgages.

Interest reduction payments pursuant to this subpart shall be made only in connection with a mortgage which is insured under subparts A and B of this part.

§ 236.510 Term of payments.

(a) The term for which interest reduction payments shall be made shall begin on the following dates:

(1) With respect to a mortgage involving insurance of advances, on the date the Commissioner finally endorses the mortgage not for insurance or such earlier date as may be established by the Commissioner.

(2) With respect to a mortgage insured upon completion, the date on which the Commissioner endorses the mortgage note for insurance.

(b) The term of the interest reduction payments shall end upon the occurrence of one of the following events:

(1) The termination of the contract of insurance, except where the mortgage has been assigned to the Commissioner.

(2) The Commissioner's receipt of the mortgagee's notice of intention to file an insurance claim and to acquire and convey title to the Commissioner pursuant to § 207.258(c) of this chapter. In the event the mortgagee fails to provide the Commissioner with such notice of intention within the time specified in § 207.258(a) of this chapter, the last day on which the Commissioner

should have received the mortgagor's notice shall be deemed the date the Commissioner receives such notice.

(3) At the discretion of the Commissioner, the mortgagor's failure to meet its obligations under the regulatory agreement it has entered into with the Commissioner.

(c) Upon termination of the interest reduction payments contract, the payment due on the first of the month in which the termination occurs shall be the last payment to which the mortgagee shall be entitled.

(d) Where the term of interest reduction payments is ended pursuant to paragraph (b) (2) or (3) of this section, such interest reduction payment contract may be reinstated by the Commissioner, in his discretion and on such conditions as he may prescribe. In the event of such reinstatement, interest reduction payments will be made to the mortgagee for those months during which such payments were suspended.

§ 236.515 Time of payments.

The interest reduction payments shall be due on the first day of each month following the beginning of the term, and shall be paid upon the receipt of a billing (on a form prescribed by the Commissioner) from the mortgagee or its authorized agent.

§ 236.520 Amount of payments.

(a) The interest reduction payment to the mortgagee shall be in an amount not exceeding the difference between the following:

(1) The monthly installment for principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage; and

(2) The monthly payment for principal and interest the mortgagor would be obligated to pay if the mortgage were to bear interest at the rate of 1 percent per annum.

(b) Where individual family units in the project are sold, subject to a plan approved by the Commissioner, and as the principal amount of the mortgage is reduced by payment of the portion of the mortgage attributable to the sold units and as the amount of the mortgage payments which the mortgagor is